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December 17, 2002

Jeff S. Jordan, Esquire
Supervisory Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 5336

Dear Mr. Jordan:

This correspondence constitutes the response of Space Gateway Support, LLC ("SGS") to the complaint filed by the Transport Workers Union of America, AFL-CIO ("the Complainant") in Matter Under Review 5336. SGS has not violated the Federal Election Campaign Act of 1971, 2 U.S.C. §§ 431-456 (2000) ("the Act"). The Complainant's arguments to the contrary are without merit. The Act imposes limits upon the amounts that individuals, corporations, political committees, and political parties can contribute to a candidate for federal office. §§ 441a-441b; see also Federal Election Comm'n v. Akins, 524 U.S. 11, 14 (1998). Additionally, the Act prohibits federal government contractors from contributing to a candidate for federal office. § 441c. Finally, the Act imposes extensive recordkeeping obligations, § 432(c), and reporting requirements, § 434.

The Complainant alleges no actions by SGS that fall within the ambit of the Act. The Complainant does not allege that SGS has made any contributions to a candidate for federal office, or that it has violated any recordkeeping or reporting provision. Based on the facts set forth below, the Complainant has not properly alleged a violation of the Act. For this reason, the Commission should dismiss the Complainant's complaint.

In October 2002, the chief steward of the Transport Workers Union of America informed SGS that a foreman in one of its facilities was campaigning on Company property. SGS

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personnel investigated the matter and determined that one of its foremen had campaign literature, leaflets, stickers, and yard signs in his office, but that he had not distributed any of this material. An SGS supervisor swiftly ordered the foreman to remove all campaign literature from the premises immediately. The foreman followed the supervisor's instructions and removed all of the materials from his office and placed them in the trunk of his vehicle. SGS reprimanded the foreman, and informed him that his actions were inappropriate and that SGS would take severe disciplinary action against him if he brought any such material back onto Company premises. The foreman acknowledged SGS's policy, and since that time, no incidents have been reported. At no time did the foreman distribute any of the campaign materials to any SGS employees.

Notwithstanding SGS's swift response to this minor, isolated incident, the Complainant has sought redress from the Commission. After researching court decisions and Advisory Opinions of the Commission, SGS can find absolutely no authority supporting the Complainant's charge. As stated above, SGS has not been accused of any of the actions that are governed by Act. The complainant does not allege that SGS has made any contributions to candidates for federal office or violated any recordkeeping or disclosure provisions. Instead, the Complainant argues that the mere presence, without SGS's knowledge, of campaign materials on Company premises constituted a violation of the Act. Because the Complainant's position is not supported by the statutory text or the Advisory Opinions of the Commission, it must be rejected.

As indicated in counsel's letter to the Commission dated December 4, 2002, counsel represents only SGS, and not the NASA Administrator or YANG Enterprises. There is no statutory basis for holding SGS accountable for the actions of either the NASA Administrator or YANG Enterprises. Accordingly, this response addresses only those allegations made against SGS. For the reasons above, SGS respectfully requests the Commission to dismiss the charges against it.

Sincerely,

James J. Kelley by RLW

James J. Kelley
Attorney for
Space Gateway Support, LLC

cc: Michael J. Butchko
Daniel L. Nettuno